IN THE HIGH COURT OF JUDICAUTRE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2675 OF 2004

Smt. Kamalabai Satish Sanghavi
and another ... Petitioners

Vs.

Anand Sahakari Griha Rach;na
Sanstha Maryadit and Ors. ... Respondents

Mr. P.K. Dhakephalkar with Mr. N.P. Shimpi and
Mr. Jagdish Reddy for Petitioner.

Mr. A.V. Anturkar for R. Nos. 1 nad 2.

Mr. C.R. Sonawane, A.G.P. for R. NO. 4 and 9.

Mr. Padmakar Kharat for R. No. 3.

Mr. Chandrakant Shivaji Khare, Chief Officer of R.
No. 3 persent in person.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : MARCH 02, 2005

P.C.

. Rule. Heard forthwith.

. Considering the controversy which is in issue, namely that the Respondent Nos. 1 and 2 did not have building permission or development permission, and in the light of that what has been argued and pointed out the petition can be disposed of.

. On behalf of the Respondent Nos. 1 and 2, their learned counsel has drawn my attention to letter dated 10.4.2003 from the Planning Authority from which it appears that from the planning point of view under the M.R.T.P. act, the development permission has been granted. The fact however, remains that till date no licence has been issued by the Respondent NO. 3 for building construction.

. The grievance of the Petitioner is that the Respondent Nos. 1 and 2 are constructing on area which has to be statutorily left open under the Development Regulations. The contention of the Respondent Nos. 1 and 2 is that apart from the plan sanctioned, there is area which earlier did not form part of the plan. Their construction is only to the extent what is permissible within the open space. Considering this controversy and other objections raised by the petitioner, we issue following directions :

(1) The Petitioners herein within two weeks from today to formally once again file objections before the Respondent No. 3 with a copy in advance to Respondent Nos. 1 and 2.

(2) Respondent No. 1 and 2 thereafter within two

weeks to file their replies with advance copy to the Petitioners.

(3) The Chief Officer of Respondent No. 3 to consider the said objections. If need be by hearing petitioners and Respondent Nos. 1 and 2 and thereafter dispose of the same according to law.

(4) If the objections are rejected, then to consider the building proposal as submitted by Respondent No. 1 and 2 and to pass appropriate orders therein within four weeks thereafter.

(5) Till such time as the building permission is obtained, respondent Nos. 1 and 2 not to carry out any constructions.

(6) If the building permission is refused, respondent No. 3 to take steps in law to remove the illegal construction after due notice to respondent Nos. 1 and 2.

. Rule made absolute accordingly. No order as to costs.

. P.A. to issue authenticated copy.

. Chief Officer to act on copy of this order.

(F.I. REBELLO,J.)

(S.P. KUKDAY,J.)